

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

SHAWN ALVIN LANE,

Defendant-Appellant.

UNPUBLISHED

June 15, 1999

No. 207987

Calhoun Circuit Court

LC No. 97-002289 FH

Before: Griffin, P.J., and Wilder and R. J. Danhof*, JJ.

PER CURIAM.

Following a one-day jury trial, defendant was convicted of assault with intent to do great bodily harm less than murder, MCL 750.84; MSA 28.279. The trial court sentenced defendant as a second habitual offender, MCL 769.10; MSA 28.1082 to three to fifteen years' imprisonment. Defendant appeals as of right. We affirm.

Defendant argues that there was insufficient evidence to sustain his conviction of assault with intent to do great bodily harm less than murder. In reviewing the sufficiency of the evidence in a criminal case, we view the evidence in a light most favorable to the prosecution and determine whether a rational trier of fact could find that the essential elements of the crime were proven beyond a reasonable doubt. *People v Godbold*, 230 Mich App 508, 522; 585 NW2d 13 (1998), citing *People v Wolfe*, 440 Mich 508, 515, n 6; 489 NW2d 748 (1992), amended on other grounds 441 Mich 1201 (1992). The elements of the offense of assault with intent to commit great bodily harm less than murder are (1) an attempt or offer with force or violence to do corporal hurt to another, and (2) a specific intent to do great bodily harm less than murder. *People v Parcha*, 227 Mich App 236, 239; 575 NW2d 316 (1997).

Defendant contends that there is no credible evidence that he intended to poke his ex-wife in the eye, causing a corneal abrasion, or that he intended to kick her in the head. Testimony of the victim, Jamie Lane, at the preliminary examination and the trial was contradictory. Lane testified at the preliminary examination that defendant came at her with his finger. She testified that she believed he

* Former Court of Appeals judge, sitting on the Court of Appeals by assignment.

was going to hit her and then he intentionally poked her in the eye. Lane also testified that defendant kicked her in the head while calling her names. Lane testified that after defendant poked her in the eye, he asked her why she made him do things like this. At trial, however, Lane testified that defendant accidentally poked her in the eye and that he may have kicked her in the head but that she might have accidentally hit her head on the bed.

While Lane's testimony is admittedly contradictory, it is the province of the trier of facts to determine which of the victim's accounts are the truth. *People v Morrow*, 214 Mich App 158, 165; 542 NW2d 324 (1995). Additionally, it is well settled that questions of credibility and intent are to be left to the trier of fact to resolve. *People v Daniels*, 172 Mich App 374, 378; 431 NW2d 846 (1988). Intent may be inferred from the facts and circumstances, *People v Daniels*, 163 Mich App 703, 706; 415 NW2d 282 (1987), and due to the difficulty in proving intent, minimal circumstantial evidence is sufficient, *People v Bowers*, 136 Mich App 284, 297; 356 NW2d 618 (1984).

After viewing this evidence in a light most favorable to the prosecution, we conclude that there was sufficient evidence introduced to prove beyond a reasonable doubt that defendant assaulted Jamie Lane with the intent to do great bodily harm less than murder.

Affirmed.

/s/ Richard Allen Griffin

/s/ Kurtis T. Wilder

/s/ Robert J. Danhof